

 COPY

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
AT JACKSON

FILED

FEB 21 2013

KATHY BLOUNT, CIRCUIT COURT CLERK

DEPUTY CLERK 7:00 P.M.

AMY CARNELL,

Plaintiff,

VS.

TNMO HEALTHCARE, LLC d/b/a
AVALON HOSPICE and
CURO HEALTH SERVICES, INC.,

Defendants.

Case No. C-13-46

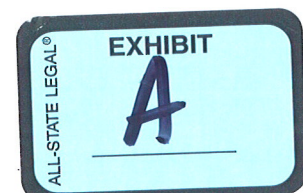
DIV. II

COMPLAINT

COMES NOW the Plaintiff, Amy Carnell (hereafter, the "Plaintiff"), and states unto this Honorable Court as follows for her Complaint against the Defendant, TNMO Healthcare, LLC, d/b/a Avalon Hospice and Curo Health Services, Inc. (hereafter, the "Defendants"):

I. PRELIMINARY STATEMENT

Plaintiff Amy Carnell has sued the Defendants for violations of the Tennessee Public Protection Act, pursuant to Tennessee Code Annotated § 50-1-304. The Tennessee Public Protection Act, ("TPPA"), commonly known as the "whistleblower" statute, provides a cause of action for employees, including state workers, who are terminated "solely for refusing to participate in, or for refusing to remain silent about, illegal activities." *Tenn. Code Ann.* § 50-1-304(b). Plaintiff sues the Defendants for retaliatory discharge under Tennessee common law as well.



II. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is an adult citizen and resident of Chester County, Tennessee, whose principal address is 6870 Old Jacks Creek Road, Henderson, Tennessee 38340.
2. Defendant, TNMO Healthcare, LLC, is a Delaware limited liability company doing business in Tennessee as Avalon Hospice. Defendant TNMO's principal office is located at 491 Williamson Road, Suite 204, Mooresville, North Carolina 28117. Defendant TNMO's registered agent for service of process is C.T. Corporation Systems, 800 South Gay Street, Suite 2021, Knoxville, TN 37929-9710.
3. Defendant, Curo Health Services, Inc. is a Delaware corporation doing business in North Carolina. It is the parent company of Defendant Avalon Hospice. Its principal office is located at 491 Williamson Road, Suite 204, Mooresville, North Carolina 28117. Defendant Curo's registered agent for service of process is C.T. Corporation System, 150 Fayetteville Street, Raleigh, NC 37601.
4. Jurisdiction and venue are proper in this Honorable Court. Substantially all of the actions complained of occurred in Madison County in Tennessee.

III. FACTS

5. Plaintiff is a former employee of Defendants, having been employed by Avalon Hospice as an RN from on or about May, 2011 until Defendants constructively terminated Carnell's employment on or about February 24, 2012.
6. Plaintiff's constructive termination by Defendants was a result of Plaintiff's refusal to perform the illegal tasks Defendants required her to do. Plaintiff made numerous complaints to her superiors making clear references to activities occurring in the

Jackson office that were fraudulent and illegal and in which she was ethically and legally prohibited from participating. Plaintiff feared criminal charges as well as the loss of her nursing license had she participated in these activities.

7. Illegal activities in which Plaintiff refused to participate and about which she reported to superiors includes, but is not limited to, the following:
 - a. Requiring unlicensed medical personnel to perform medical services that only licensed medical personnel are authorized to perform;
 - b. Falsification of timesheets;
 - c. Falsification of doctor's orders; ~
 - d. Falsification of nurses' signatures.
8. Although Plaintiff began notifying upper management about the illegal activities in the Jackson office, upper management failed to take action to rectify the illegal activities. The Plaintiff was forced to resign for fear of losing her nursing license; therefore, she was constructively terminated.
9. Based upon the foregoing, Plaintiff has experienced humiliation, degradation, embarrassment, loss of income, mental anguish, and other damages.

IV. CAUSES OF ACTION

10. The foregoing facts are incorporated by reference as if set forth fully herein.
11. The Plaintiff brings the following causes of action against the Defendants:
 - a. Plaintiff sues the Defendants for violations of the Tennessee Public Protection Act, pursuant to Tennessee Code Annotated § 50-1-304, or the "whistleblower" statute, for her constructive termination "solely for refusing to participate in, or for refusing to remain silent about, illegal activities." *Tenn. Code Ann.* § 50-1-304(b).
 - b. Plaintiff sues the Defendants for retaliatory discharge under Tennessee common law as well.

V. DAMAGES

12. Plaintiff has been greatly damaged as a result of the Defendants' actions. She has suffered, and will continue to suffer, damage including, but not limited to, loss of her professional and personal reputation, loss of income, loss of business opportunity, and mental distress.
13. Plaintiff seeks all compensatory damages, including lost wages, lost earning capacity, emotional distress, and embarrassment. She also seeks her attorney fees, costs, and both prejudgment and post-judgment interest and any other damages as allowed under the TPPA and common law.

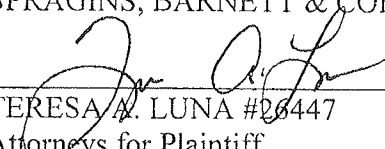
VI. PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiff prays:

- A. That proper process issue and be served upon the Defendants, and that Defendants be required to appear and answer this Complaint within the time required by law.
- B. That Plaintiff be awarded a judgment for compensatory damages and other recoverable losses against Defendants in an amount deemed proper by the jury.
- C. That Plaintiff be awarded punitive damages against Defendants in an amount sufficient to punish its wrongful conduct and deter such wrongful conduct in the future.
- D. That the costs of this action be awarded to Plaintiff.
- E. That the Plaintiff be awarded her attorney fees, costs, and both prejudgment and post-judgment interest.
- F. Such further and other general relief to which Plaintiff may be entitled.

Respectfully submitted,

SPRAGINS, BARNETT & COBB, PLC


TERESA A. LUNA #26447

Attorneys for Plaintiff

P.O. Box 2004, 312 E. Lafayette Street

Jackson, TN 38302

(731) 424-0461

(731) 424-0562 (Telefax)

tluna@spraginslaw.com

COST BOND

We stand as sureties for costs in this cause.

SPRAGINS, BARNETT & COBB

By: 

TERESA A. LUNA



**Service of Process
Transmittal**

05/31/2013

CT Log Number 522828423

TO: Doug Abell, Secretary and General Counsel
Curo Health Services, Inc.
491 WILLIAMSON ROAD, SUITE 204
MOORESVILLE, NC 28117

RE: Process Served in North Carolina

FOR: Curo Health Services, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Amy Carnell, Pltf. vs. TNMO Healthcare, LLC, etc. and Curo Health Services, Inc.,
Dfts.

DOCUMENT(S) SERVED: Notice of Service, Summons, Complaint

COURT/AGENCY: Madison County Circuit Court, TN
Case # C1346DIVII

NATURE OF ACTION: Employee Litigation - Whistle Blower's Act - Plaintiff refused to participate in, or for
refusing to remain silent about illegal activities

ON WHOM PROCESS WAS SERVED: C T Corporation System, Raleigh, NC

DATE AND HOUR OF SERVICE: By Certified Mail on 05/31/2013 postmarked on 05/29/2013

JURISDICTION SERVED : North Carolina

APPEARANCE OR ANSWER DUE: Within 30 days after service, exclusive of the day of service

ATTORNEY(S) / SENDER(S): Teresa A. Luna
Spragins, Barnett & Cobb, PLC
P.O. Box 2004
312
E. Lafayette Street
Jackson, TN 38302
731-424-0461

ACTION ITEMS: CT has retained the current log, Retain Date: 05/31/2013, Expected Purge Date:
06/05/2013
Image SOP
Email Notification, Doug Abell dabell@curohs.com
Email Notification, Sam Rose srose@fmhd.com
Email Notification, Scott Gowen Sgowen@fmhd.com
Email Notification, Teri L Barnett tbarnett@fmhd.com

SIGNED: C T Corporation System
PER: Ronnie Strickland
ADDRESS: 150 Fayetteville St.
Box 1011
Raleigh, NC 27601
TELEPHONE: 919-821-7139



State of Tennessee
Department of State
Division of Business Services
Wm. R. Snodgrass Tower
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243

5/28/2013
Date

70123050000123729086
Certified Number

File No: C-13-46-DIV II

Company: CURO HEALTH SERVICES, INC.

Name:

Agent/POE: RA: CT CORPORATION SYSTEM

Address: 150 FAYETTEVILLE STREET
RALEIGH, NC 37601

Country:

RE: AMY CARNELL

VS: TNMO HEALTHCARE, LLC ET AL

Notice of Service

The enclosed summons and attachments are hereby officially served upon you by the Office of the Tennessee Secretary of State pursuant to Tennessee Law. Please refer to the summons and attachments for details concerning the lawsuit filed against you. If you have any questions, please contact the clerk of the court which issued the summons. You can obtain the court's telephone number by calling information (area code) 555-1212. The name of the court and county where the court is located will be on the attached summons.

The summons will either tell you a court date and time at which you must appear to defend yourself or tell you the number of days from the day you are served within which you must file an answer upon the plaintiff's attorney. Failure to appear in court at the time specified or failure to answer the summons within the given time could result in a judgement by default being rendered against you for relief sought in the lawsuit.

The Secretary of State's Office cannot give you legal advice. If you need legal advice, please consult a private attorney.

Sincerely,

Tre Hargett
Secretary of State

enclosures
Initial: CDC
CC:

STATE OF TENNESSEE
CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
AT JACKSON

 COPY

AMY CARNELL,
Plaintiff,

vs.

TNMO HEALTHCARE, LLC, d/b/a
AVALON HOSPICE and CURO
HEALTH SERVICES, INC.,
Defendant.

) ALIAS SUMMONS IN A CIVIL
) ACTION
)

) No. C-13-46 -- Div. II
)

RECEIVED
STATE OF TENNESSEE
SECRETARY OF STATE
JRE HANDEL

2013 MAY 24 AM 9:45

To the above named Defendant(s): CURO HEALTH SERVICES, INC. -- Serve Its
Agent: C.T. Corporation System, 150 Fayetteville Street, Raleigh, NC 37601 -- SERVE
THROUGH THE SECRETARY OF STATE

You are hereby summoned and required to answer, in writing, the complaint which is
herewith served upon you, and to serve a copy of same upon **Teresa A. Luna**, who is Plaintiff's
Attorney, whose address is **312 E. Lafayette Street, Jackson, TN 38301**, within thirty (30) days
after service of this summons upon you, exclusive of the date of service. If you fail to do so, a
judgment by default will be taken against you for the relief demanded in the complaint.

Issued this 21 day of May, 2013.

KATHY BLOUNT, Circuit Court Clerk

By: 

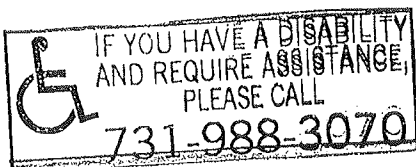
Deputy Clerk

RETURN ON SERVICE OF SUMMONS

I hereby certify and return, that on the _____ day of _____, 2013,
I served this summons together with a copy of the complaint herein as follows: _____

Sheriff

Deputy Sheriff

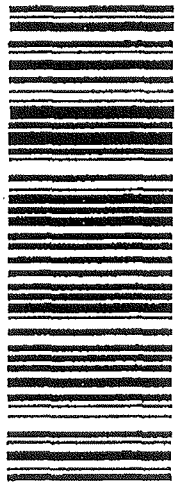


Business Services Division
Tre Hargett, Secretary of State

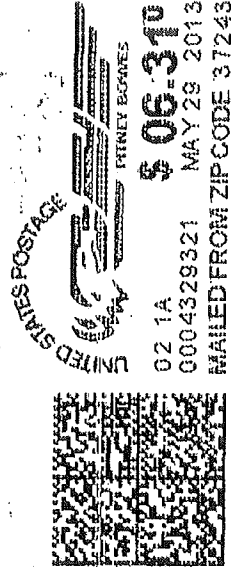


State of Tennessee
312 Rosa L. Parks Avenue, 6th Floor
Nashville, Tennessee 37243-1102

CERTIFIED MAIL™



7012 3050 0001 2372 9086



CURO HEALTH SERVICES, INC.
RA: CT CORPORATION SYSTEM
150 FAYETTEVILLE STREET
RALEIGH, NC 37601

27601295760



**Service of Process
Transmittal**

06/11/2013

CT Log Number 522887550

TO: Doug Abell, Secretary and General Counsel
Curo Health Services, Inc.
491 WILLIAMSON ROAD, SUITE 204
MOORESVILLE, NC 28117

RE: Process Served in Tennessee

FOR: TNMO Healthcare, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Amy Carnell, Pltff. vs. TNMO Healthcare, LLC, etc. and Curo Health Services, Inc.,
Dfts.

DOCUMENT(S) SERVED: Summons, Complaint

COURT/AGENCY: Madison County Circuit Court, TN
Case # C1346

NATURE OF ACTION: Employee Litigation - Wrongful Termination - On February 24, 2012

ON WHOM PROCESS WAS SERVED: C T Corporation System, Knoxville, TN

DATE AND HOUR OF SERVICE: By Process Server on 06/11/2013 at 10:45

JURISDICTION SERVED : Tennessee

APPEARANCE OR ANSWER DUE: Within 30 days after service of this summons upon you, exclusive of the date of
service

ATTORNEY(S) / SENDER(S): Teresa A. Luna
Spragins, Barnett & Cobb, PLC
312 E. Lafayette Street
Jackson, TN 38302
731-424-0461

ACTION ITEMS: CT has retained the current log, Retain Date: 06/11/2013, Expected Purge Date:
06/16/2013
Image SOP
Email Notification, Doug Abell dabel@cuoahs.com
Email Notification, Sam Rose srose@fmhd.com
Email Notification, Scott Gowen Sgowen@fmhd.com
Email Notification, Teri L Barnett tbarnett@fmhd.com

SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 800 S. Gay Street
Suite 2021
Knoxville, TN 37929-9710
TELEPHONE: 800-592-9023

 **COPY**

**STATE OF TENNESSEE
CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
AT JACKSON**

AMY CARNELL, Plaintiff,)	ALIAS SUMMONS IN A CIVIL
)	ACTION
vs.)	
)	No. C-13-46 Div. II
TNMO HEALTHCARE, LLC, d/b/a)	
AVALON HOSPICE and CURO)	
HEALTH SERVICES, INC.,)	
Defendant.)	

To the above named Defendant(s): **TNMO HEALTHCARE, LLC, d/b/a AVALON HOSPICE, Serve Its Agent: C.T Corporation Systems, 800 South Gay Street, Suite 2021, Knoxville, TN 37929-9710.**

You are hereby summoned and required to answer, in writing, the complaint which is herewith served upon you, and to serve a copy of same upon **Teresa A. Luna**, who is Plaintiff's Attorney, whose address is **312 E. Lafayette Street, Jackson, TN 38301**, within thirty (30) days after service of this summons upon you, exclusive of the date of service. If you fail to do so, a judgment by default will be taken against you for the relief demanded in the complaint.

Issued this 21 day of May, 2013.

KATHY BLOUNT, Circuit Court Clerk

By: _____

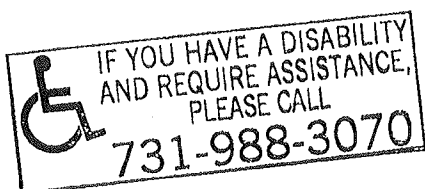
Deputy Clerk

RETURN ON SERVICE OF SUMMONS

I hereby certify and return, that on the _____ day of JUN 11 2013, 2013, I served this summons together with a copy of the complaint herein as follows: _____

Ericka Fry

TNMO Healthcare LLC



Sheriff

W C Bryant / #B1364